

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

**R.A.Jr., (a minor child, by and through his
Father and next best friend, Richard Lemmel
Arnold,
Plaintiff,
v.
DEPUTY SHERIFF WALTER LACEY,
in his official and individual capacity
Defendant.**

Case No.: 3:06-CV-337-WHA

PLAINTIFFS' JURY INSTRUCTION NUMBER 11

PMCIIV-FJPI § 1-1.12.1.1

§ 1-1.12.1.1. Seizure, was detainee free to leave?, factors

A seizure occurs when police through coercion, physical force, or a show of authority in some way restricts the liberty of a person.

A person's liberty is restrained when, taking into account all of the circumstances surrounding the encounter, police conduct would have communicated to a reasonable person that she or he was not at liberty to ignore the police presence and go about her or his business.

Five factors aid in determining whether a reasonable person would have felt “at liberty” to ignore police presence and go about her or his business.

These factors are: (1) the number of officers; (2) whether weapons were displayed; (3) whether the encounter occurred in a non-public setting; (4) whether the officers' officious or authoritative manner would imply that compliance would be compelled; and (5) whether the officers advised the detainee of her or his right to terminate the encounter.

GIVEN

REFUSED